

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DANTAO SU,

NO. C 10-04194 EJD

Plaintiff(s),

**ORDER RE: PLAINTIFF'S REQUEST FOR
ACTION**

v.

DEFENSE LANGUAGE INSTITUTE
FOREIGN LANGUAGE CENTER, ET AL.,

[RE: Docket Item No. 19]

Defendant(s).

Presently before the Court is Plaintiff's Request for Action. (Docket Item No. 19.) Plaintiff requests 1) that the Court remove or amend the Reassignment Order dated April 25, 2011, and 2) that default and default judgment be entered against Defendant. (Id. at 4.)

The Court's April 25, 2011 Order Reassigning this case from the Honorable James Ware to the Honorable Edward J. Davila remains undisturbed. This matter shall remain venued in the current department for all future purposes. Accordingly, Plaintiff's request is DENIED.

The Court finds no legal basis to grant the request for default and refers Plaintiff to the Court's previous Order dated April 20, 2011 (hereinafter, "Previous Order," Docket Item No. 14) in which the Court extended the deadline for service for ninety (90) days. Upon review of the docket, it appears that Defendant has not yet been served by the U.S. Marshal. As explained in the Previous Order, the Court can not take any action against a defendant who has not been properly served under

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1 Federal Rule of Civil Procedure 4. Accordingly, Plaintiff's request for default and default judgment
2 is DENIED.

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4 **IT IS SO ORDERED.**

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6 Dated: May 6, 2011



EDWARD J. DAVILA
United States District Judge